IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH AT HYDERABAD

HON'BLE Mr. JUSTICE R. SUBHASH REDDY

Writ Petition No.30719 of 1998

Dated: April 4, 2007

Between:

B. Sukdev Pershad, S/o. late Bansilal, aged about 49 years, R/o. Narayanaguda, Hyderabad.

… Petitioner

And

The Municipal Corporation of Hyderabad, rep. by its Commissioner, Tank Bund Road, Hyderabad.

… Petitioner

Order:

Petitioner seeks a Writ of Mandamus to declare the action of the respondent in interfering with the structures raised by him in Premises No.3-5-963, admeasuring 1167 Sq. yards, situated at Narayanaguda, Hyderabad, without considering his application for regularization of alleged unauthorized constructions, as per G.O.Ms.No.419, Municipal Administration and Urban Development (W1) Department dated

30-07-1988, as arbitrary and unjustified.

2. The case of the petitioner, who claims to be the owner and possessor of the aforesaid premises, is that he was granted permission for construction of a building with stilt plus five floors in the aforesaid premises, for residential purposes, under the provisions of the Hyderabad Municipal Corporation Act, vide Permit No.101/8/98 in File No.280 /TP3/97 dated 18-06-1998. It is stated that when respondents were interfering with the construction made by him on the ground that the same is not accordance with the sanction plan, petitioner has made an application dated 12-09-1998 to the respondents for regularization in terms of the G.O., referred above. Petitioner alleges that on one hand the said application is pending, and on the other respondents are highhandedly interfering with the construction made by him the aforesaid premises.

3. Though Government has issued G.O.Ms.No.419, Municipal Administration and Urban Development (W1) Department dated 30-07-1988, for regularization of unauthorized constructions which were made upto 30-06-1998 in the areas of Municipal Corporations, Urban Development Authorities and Municipalities, the validity of the said G.O., came to be examined by a Division Bench of this court in the case of **Dr. C. Kulsum Reddy Vs. State of Andhra Pradesh**[1], and the same was quashed. In view of the same, no direction can be issued to the respondents to consider the application of the petitioner as per the said G.O., at this stage.

4. However, Government has subsequently brought A.P. Regularization of the un-authorised constructions in Municipal Corporations, Municipalities and Urban Development Authorities Act,

2003 ('the Act' for brevity) into force, for regularization of unauthorized constructions. As per the said Act, Government is empowered to regularize unauthorized constructions and also the constructions, which are made in deviation of the sanction plans upto 30-06-1998.

5. As much as the G.O., referred above has been quashed by a Division Bench of this court and the aforesaid Act has come into force during the pendency of the Writ Petition, I dispose of the Writ Petition permitting the petitioner to make an application to the competent authority seeking regularization of the construction made in his premises within a period of six weeks from the date of receipt of this order. If any such application is received, the respondent/competent authority shall consider the said application and regularize the construction or deviation in construction, if the same falls within the scope of the Act and pass appropriate orders, as expeditiously as possible. Till such time, respondents shall not interfere with the structures raised by the petitioner in his premises. It is clarified that if no application is filed within the time stipulated above, respondents are at liberty to proceed further in accordance with law. No costs.

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JUSTICE R. SUBHASH REDDY.

April 4, 2007
MRR

[1] **2002 (3) ALT 536 (DB)**